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**ZONING COMMISSION**  
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**ZBA SUBCOMMITTEE MEETING MINUTES**  
**APRIL 27, 2021**

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The meeting of the Zoning Board of Appeals subcommittee of the Zoning Commission was called to order by Robert Melillo at 7:00 PM.

Present were subcommittee members Sidney Almeida, Angela Hylenski, and Robert Melillo. Also present were Zoning Commission Chairman Theodore Haddad Jr. and Planning Director Sharon Calitro.

Mr. Melillo said they are here to discuss the following ZBA application which has been referred to them and the Planning Commission for a recommendation in accordance with Sec. 11.B.4.a. of the Zoning Regulations. ZBA Application #21-09: 3 Lake Avenue Extension LLC, 3 Lake Ave. Ext., (G15005), CA-80 Zone, Use Variance Sec. 5.B.2.a., Allow use of the property as "shelter for homeless with conditions".

He said their job is to discuss this and propose what recommendation they will suggest the full Commission makes on this during the regular meeting. He said they are all familiar with the site which has been in use as the homeless shelter since the pandemic began. He said that they all were sent a copy of the application as well the Planning Department staff report dated April 15, 2021. He asked Mrs. Calitro to review the report with them.

Mrs. Calitro said this is a request to allow an existing hotel to be used as shelter for the homeless. It has been used in this manner since March 2020 under the authorization of the State. She said the LLC (applicant) is the contract purchaser of this site. This is a pre-existing non-conforming lot that was approved as a hotel in 1987. It abuts Interstate 84, the Danbury Housing Authority and two commercial uses. This proposal is in accordance with the Governor's Executive Order which authorizes the City to provide alternate housing and provides the means to fund it through the Federal "CARES" Act. This application proposes a number of conditions that would limit the number of supportive housing rooms in the building, restrict the rooms from having any cooking appliances, and provide assurances that the rooms meet the definition of affordable housing in accordance with Connecticut General Statutes (CGS), Section 8-30g. These conditions are basically deed restrictions that are intended to be recorded on the City Land Records. This facility is the new prototype designed to provide services to address the needs of individuals experiencing homelessness and, in this situation, is a model endorsed by the State. She said the public benefit would be that this facility would

provide counseling and supportive services in addition to a place for the homeless to sleep and get a meal. She added that the New Street Shelter will be shut down and the State will provide funding and oversight for this operation, so the City will no longer be entirely responsible for the operation of this shelter.

Mrs. Calitro said the Department is usually not in favor of any use variance as it extends a right to use property that is not extended to other landowners. She added that the Zoning Board of Appeals cannot grant a variance for a use which is inconsistent with the general purpose and intent of the Zoning Regulations. Hotels are permitted in this zone and offer rooms to transient guests who pay for the use of the rooms. Shelters also provide lodging to a transient population; and in this case, will also be required to provide supportive services in other rooms. Neither hotels or motels nor shelters for the homeless are considered dwelling units under the Zoning Regulations. And, the prohibition on cooking facilities within rooms occupied by those experiencing homelessness will ensure that said rooms do not become dwelling units. Based on the declared state of emergency for people experiencing homelessness, it can be concluded that this use variance would not result in a substantial change to the uses permitted in the CA-80 zone.

The Plan of Conservation & Development (POCD) recommends this property be used for general commercial uses and although a homeless shelter is not specifically listed as a general commercial use, it is similar to a hotel and therefore does not conflict with the property designation on the Land Development Plan map in the POCD. Additionally the POCD provides that the City should expand the supply of affordable housing and one of the proposed conditions of this use variance is that the rooms within this structure meet the definition of affordable housing as stated in CGS Section 8-30g. She said this means that the Commission may reasonably conclude that this proposal is consistent with the POCD. She said this is a win for the City because designating this as affordable housing will increase the number of affordable housing units in the City. She said the Department recommends if they give this a positive recommendation, that they add a condition that the applicant records the deed restrictions (included in the application) on the City Land Records within ten days of approval of the use variance. She also requested that a copy of the staff report be attached to their recommendation, as it is not provided to the ZBA. She said that these two things will ensure that the use variance upholds the integrity of the Zoning Regulations. Lastly she said this is win for the City because it upholds the integrity of the Regulations, it is not a rezoning proposal, and it is a state sanctioned use on arterial highway adjacent to other properties zoned multi-family. Mr. Melillo said based on all of this information, he suggests they propose to the rest of the Commission to give a positive recommendation. Mr. Almeida and Mrs. Hylenski said they also agreed.

Mrs. Hylenski then made a motion that the subcommittee suggest to the entire Commission to give a positive recommendation with the condition that the deed restrictions attached to the ZBA application be recorded on the land records once the variance has been granted, and that the Planning Department staff report dated be attached to their recommendation letter. Mr. Almeida seconded the motion as stated and it was passed with three ayes from Mr. Almeida, Mrs. Hylenski, and Mr. Melillo.

At 7:20 PM, Mrs. Hylenski made a motion to adjourn the subcommittee meeting. Mr. Almeida seconded the motion and it was passed unanimously by voice vote with ayes from Mr. Almeida, Mrs. Hylenski, and Mr. Melillo.

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**MINUTES  
APRIL 27, 2021**

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The regular meeting was called to order by Chairman Theodore Haddad Jr. at 7:30 PM.

Present were Sidney Almeida, Candace Fay, Theodore Haddad Jr., Angela Hylenski, Rick P. Jowdy, Robert Melillo, and Alternate Jason Eriquez. Also present was Planning Director Sharon Calitro.

Absent were Ryan Hawley, James Kelly, Michael Masi, and Alternates Nelson Merchan Jr., and Thomas Nejame.

Chairman Haddad asked Mr. Eriquez to take Mr. Kelly's place for the items on tonight's agenda.

Mr. Melillo led the Commission in the Pledge of Allegiance.

Mrs. Fay made a motion to accept the April 13, 2021 minutes. Mr. Almeida seconded the motion and it was passed unanimously by voice vote.

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Chairman Haddad said there are no new public hearings or continuations of public hearings scheduled for this evening.

**OLD BUSINESS:**

ZBA Referral - ZBA Application #21-09: 3 Lake Avenue Extension LLC, 3 Lake Ave. Ext., (G15005), CA-80 Zone, Use Variance Sec. 5.B.2.a., Allow use of the property as "shelter for homeless with conditions". ZBA public hearing scheduled for May 13, 2021.

Chairman Haddad said the subcommittee met earlier this evening and he asked Mr. Melillo to present a report to the Commission.

Mr. Melillo said that everyone was provided a copy of the ZBA application and the Planning Department staff report which was prepared by Mrs. Calitro. He said he believes everyone is familiar with the subject property, which has been used as the City's homeless shelter since the pandemic began. He said what is being proposed is the new model of a homeless shelter. It not only provides a bed and a meal but also offers support services for the people who stay there. He said this property is non-conforming with regard to the area but was approved in 1987 as a hotel and has been continuously used for that purpose since then. He said this is not really a substantial change because it is a similar use to others permitted in CA-80 (as described in the staff report). And since the New Street Shelter

will be shut down and the State will provide funding and oversight for this operation, the City will no longer be entirely responsible for the operation of the shelter. He continued saying that this will serve the needs of the community, it is the least intrusive solution to providing a shelter, and it does comply with the Plan of Conservation & Development (POCD). The reasons for these statements were discussed extensively in the staff report and during the subcommittee meeting. He said another positive aspect for the City is that these units will be designated as affordable housing which will increase the number of affordable housing units in the City. He added that although the Commission does not usually support use variances, this is a win for the City. He said the subcommittee had a very detailed discussion of all aspects of this proposal including the reasons for recording the deed restrictions on the City land records. Lastly he said the Planning Department recommends a positive recommendation because this upholds the integrity of the Zoning Regulations while satisfying the need for the City to provide a shelter for the homeless. There was some discussion among the Commission members regarding the required qualifications to be admitted to the shelter, and how the funding would be handled.

Chairman Haddad said this will allow City money which was designated to fund the New Street shelter to be used for other purposes within the City. Mrs. Calitro said he Planning Department supports a positive recommendation with the condition that the deed restrictions be recorded on the land records and requests the staff report be attached to their recommendation letter.

Mr. Melillo made a motion to give this a positive recommendation with the conditions that the deed restrictions which are attached to the ZBA application be recorded on the City land records once the variance is granted and a copy of the Planning Department staff report dated April 15, 2021 be attached to their recommendation letter. He then gave the following reasons for this motion:

- (1) Approval of this use for this site will uphold the integrity of the Zoning Regulations and add to the City's affordable housing inventory;
- (2) The homeless will benefit from this new shelter model because they will receive counseling and support services as well as a bed and a meal;
- (3) The New Street shelter will be closed and the State and various local agencies (including the City) will handle the operations of this facility.
- (4) The use of this property for this purpose is consistent with the Land Development Plan and the Housing Section in the Plan of Conservation & Development (POCD).

Mrs. Fay seconded the motion. Chairman Haddad took a roll call vote on this motion as stated and it was passed unanimously with seven ayes (from Mr. Almeida, Mrs. Fay, Mrs. Hylenski, Mr. Jowdy, Mr. Melillo, Mr. Eriquez & Chairman Haddad) and two members not voting (due to absence).

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#### NEW BUSINESS:

Petition of Quirk Works Brewing and Blendery Inc./Triangle Industries LLC (Property Owner), 78 Triangle Street (J14280) for Special Permit for Brewery in the IL-40 Zone.

*Public hearing scheduled for May 11, 2021. THIS DATE IS SUBJECT TO CHANGE DEPENDING ON CIRCUMSTANCES RELATED TO COVID-19.*

Chairman Haddad read this item and said this type of petition does not require any referrals.

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Mr. Melillo then made a motion to add the following petition to tonight's agenda as number two under the Old Business: Petition of D & B Wellness to Amend Sections 5.A.5.f.(2), 5.B.3.b., and 5.B.5.f.(1) of the Zoning Regulations. (Delete Prohibition on Drive-Thru Window for Medical Marijuana Dispensary.) *Proposed Public Hearing date is June 8, 2021.* Mr. Jowdy seconded the motion and it was passed unanimously by voice vote.

Petition of D & B Wellness to Amend Sections 5.A.5.f.(2), 5.B.3.b., and 5.B.5.f.(1) of the Zoning Regulations. (Delete Prohibition on Drive-Thru Window for Medical Marijuana Dispensary.) Proposed Public Hearing date is June 8, 2021.

Mr. Melillo made a motion to accept this petition, place it on file in the Town Clerk's office, and refer it to the Planning Commission and any other applicable agencies. Mrs. Hylenski seconded the motion and it was passed unanimously by voice vote.

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Chairman Haddad asked if there was anything to discuss under Other Matters. Mr. Melillo said he thought they should discuss the proposed "Senate Bill 1024" and its potential impact on the City. He suggested the Commission take a stand to protect their constituents from anything that would limit local control. Chairman Haddad said he too has been following this and is concerned that it proposes the elimination of local zoning control and removes the public hearing process. He added that although the State may have good intentions, each individual municipality knows better what is needed in their community. He asked Mrs. Calitro if he is understanding the potential ramifications of this proposal. Mrs. Calitro said this is an elimination of home rule and would result in no public input on proposed development. Additionally, it would mandate certain uses be permitted as of right and limit the ability to regulate and enforce zoning regulations. She said the regional planning agency WestCOG, is taking a position against many of the proposed changes. Chairman Haddad said even if this bill gets squashed, they are including this concept in another bill. Mr. Almeida asked Mrs. Calitro to provide the Commission information on this. Mrs. Calitro said they could issue a statement or resolution against the two bills. Mr. Melillo suggested they stay away from the specific bills and just address the elimination of the individual Cities rights. Mrs. Calitro said they could issue a general resolution that we should be able to promulgate and enforce our Zoning Regulations. Chairman Haddad said they should take the position that the Commission does not want to give up local control. Mr. Melillo said they don't want to politicize this but they need to protect the City charter. Mrs. Fay then said there is specific case law regarding zoning and she offered to provide specific citations to the Commission members in time for the next meeting.

Chairman Haddad then asked Mrs. Calitro the status of the Governor's Executive Order regarding virtual meetings. Mrs. Calitro said Executive Order 11 was issued on April 20th and it extends the provision for virtual meetings until May 20, 2021. She said she would let the Commission know if there are changes as soon as she finds out.

Chairman Haddad said there was nothing under Correspondence. He then read the four petitions listed under For Reference Only which are scheduled for May 11, 2021 and May 25, 2021 public hearings.

At 8:05 PM, Mr. Almeida made a motion to adjourn. Mrs. Fay seconded the motion and it was passed unanimously by voice vote.

Respectfully submitted,

JoAnne V. Read  
Planning Assistant